

Bedford Hills, New York
February 21, 2012

A public hearing was held by the Town Board of the Town of Bedford on February 21, 2012 at the Town Offices, 321 Bedford Road, Bedford Hills, New York to consider an amendment to Chapter 125 – Zoning – of the Code of the Town of Bedford - Local Law #1-2012 – the Affordable Affirmatively Furthering Fair Housing Units Ordinance. The meeting was called to order at 7:30 P.M. by Supervisor Roberts.

Present:	Lee V. A. Roberts	: Supervisor
	Peter Chryssos	: Councilman
	Francis T. Corcoran	: Councilman
	Chris Burdick	: Councilman
	David Gabrielson	: Councilman
	Lisbeth Fumagalli	Town Clerk
	Eric Gordon	: Town Attorney
	Jeffrey Osterman	: Director of Planning
	Steven Fraietta	: Building Inspector
	William Hayes	: Chief of Police
	Amy Pectol	: Receiver of Taxes
	Edward Ritter	: Town Comptroller

And twenty (20) residents/observers.

Proof of publication was presented and ordered filed. The public notice was published in the Bedford Pound Ridge Record Review on February 10, 2012.

Mr. Osterman gave an overview of the proposed legislation noting that the Town of Bedford supported the Westchester County law to provide fair housing to all. He pointed out that this mainly effects subdivisions of five (5) or more lots and they must have 10% affordable housing, something the Town of Bedford already requires. He added that the affordable units must be marketed.

Mrs. Roberts acknowledged the receipt of two (2) letters in support of the ordinance from Westchester County and from the Rev. Paul Alcorn of the Bedford Presbyterian Church.

Mrs. Roberts opened the floor to public comment. She commented that the Town Board had worked on this legislation for eighteen (18) months with the Planning Board and the Blue Mountain Housing Development Corp.

Residents asked questions about the history of the ordinance and several offered support to the Town Board for taking this step, as being a leader in affordable housing. In addition, some concern was voiced that the Federal government was trying to govern locally and the Town of Bedford should be careful moving forward.

On a motion by Mrs. Roberts, seconded by Mr. Corcoran, the following resolution was ADOPTED

Ayes:	Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays:	None
Absent:	None

RESOLVED that the Town Board does hereby close the public hearing to consider an amendment to Chapter 125 – Zoning – of the Code of the Town of Bedford - Local Law #1-2012 – the Affordable Affirmatively Furthering Fair Housing Units Ordinance.

On a motion by Mr. Burdick, seconded by Mr. Chryssos, the following resolution was ADOPTED

Ayes:	Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays:	None
Absent:	None

RESOLVED that the Town Board does hereby issue a negative declaration relative to an amendment to Chapter 125 – Zoning – of the Code of the Town of Bedford - Local Law #1-2012 – the Affordable Affirmatively Furthering Fair Housing Units Ordinance as the enactment of this legislation will have no adverse physical or environmental effects.

On a motion by Mr. Chryssos, seconded by Mr. Burdick, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

Be it resolved that the Town of Bedford amends Chapter 125 of the Code of the Town of Bedford regarding Fair Housing Units as follows:

**Town of Bedford
Affordable Affirmatively Furthering Fair Housing Units
Ordinance**

Section 125-3. Definitions.

Add the following definitions:

Affordable Affirmatively Furthering Fair Housing (A AFFH) Unit

A for-purchase housing unit that is affordable to a household whose income does not exceed 80% of the area median income (AMI) for Westchester as defined annually by the U.S. Department of Housing and Urban Development (HUD) and for which the annual housing cost of a unit including common charges, principal, interest, taxes and insurance (PITI) does not exceed 33% of 80% of AMI, adjusted for family size and that is marketed in accordance with the “Westchester County Fair & Affordable Housing Affirmative Marketing Plan”
or

A rental unit that is affordable to a household whose income does not exceed 60% of AMI and for which the annual housing cost of the unit, defined as rent plus any tenant paid utilities, does not exceed 30% of 60% of AMI adjusted for family size and that is marketed in accordance with the “Westchester County Fair & Affordable Housing Affirmative Marketing Plan.”

Town Housing Agency

An agency established by the Town Board to assist in the development and management of affordable housing in the Town.

125-29.6. Affordable housing.

Revise existing section to read as follows:

A. Findings; policy. The Town of Bedford finds that:

1. The Town faces a shortage of affordable housing due to the high cost of housing in the Town, which impacts the general welfare of the municipality;
2. The Town has an obligation to assist Westchester County and New York State in the preservation, rehabilitation, and construction of affordable housing.
3. The social and economic diversity of the Town is dependent upon a reasonable supply of affordable housing.
4. The Town’s Comprehensive Plan encourages the creation of affordable housing within the Town.
5. The Town Housing Agency utilizes substantial resources in providing and assisting in the provision of affordable housing.

6. It is the policy of the Town to require applicants to share in the creation of affordable housing.

B. Purpose. The purpose of this section is to ensure that new residential development in the Town includes a reasonable supply of fair and affordable housing. This section sets forth standards for affordable housing to be provided in conjunction with residential development of land.

C. Applicability.

1. This section shall apply to all proposed residential development of land.
2. This section shall not apply to any residential development which has received preliminary subdivision or site plan approval by the Town of Bedford Planning Board as of the effective date of this Local Law.

D. Creation of AAFHH units.

1. AAFHH units in Single Family Zoning Districts
 - a. Within all residential developments of 5 or more units, no less than 10% of the total number of units must be created as AAFHH units. For this purpose 0.5 units shall be rounded to the next highest whole number. For example, a development of 17 units will require two AAFHH units. These units must be provided on the site of the proposed development.
 - b. Within all residential developments of less than 5 units, in addition to the methods specified in Section 125.29.6 D1 a. and b. above, the Planning Board may require a fee-in-lieu payment in accordance with the requirements of Section 125-29 I.
 - c. When a proposed residential subdivision contains 20% or more affordable housing units, the Planning Board may:
 1. Waive or reduce certain fees for applicants.
 2. Consider such other forms of assistance which may be under the control of the Town.
 3. Actively assist in obtaining assistance of federal, state or other agencies in support of affordable housing development.
 4. Allow the reduction of dimensional requirements by not more than 25% and an allowance for shared parking so as to reduce infrastructure costs.
2. AAFHH units in Multifamily Zoning Districts.
 - a. At least 20% of the units of any multifamily residential development in any multifamily residential zoning district shall be established as AAFHH units.

E. Planning Board Review. The Planning Board shall consider the following provisions in reviewing affordable housing unit applications:

1. Siting of affordable units. All AAFHH units constructed under this section shall be situated within the proposed development or at an approved off-site location so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.

2. Minimum design and construction standards for affordable units. AAFHH housing units within market-rate developments shall be integrated with the rest of the developments and shall be compatible in design, appearance, construction and quality of materials with other units.
3. Timing of construction or provision of affordable units or lots. The construction of affordable units shall occur proportionately with the construction of the market rate units in the subdivision. No Certificates of Compliance may be issued for the last 10% of market rate units within a development until the last affordable unit has been issued a Certificate of Compliance.
4. Minimum Floor Area. The minimum gross floor area per AAFHH unit shall be no less than the following:

Dwelling Unit Minimum Gross Floor Area (square feet)

Efficiency	450
1 bedroom	675
2 bedroom	750
3 bedroom	1,000 (including at least 1.5 baths)
4 bedroom	1,200 (including at least 1.5 baths)

For the purpose of this section, paved terraces or balconies may be counted toward the minimum gross floor area requirement in an amount not to exceed 1/3 of the square footage of such terraces or balconies.

5. Affordable Housing Requirements for Special Populations. At the discretion of the Planning Board and upon a showing of good cause, affordable housing requirements for special populations may be waived or modified. Said population may include the handicapped, the infirm or seniors when such housing is independent-living, congregate-care, nursing-home or such other housing for special populations that the Town Housing Agency recognizes.
6. Unit Appearance and Integration. Within single-family developments, the AAFHH units may be single-family homes or may be incorporated into one or more two-family homes. Each single-family AAFHH unit may be located on a lot meeting seventy-five percent (75%) of the minimum lot area for the single-family homes in the development. Each such two-family home shall be located on a lot meeting the minimum lot area for the single-family homes in the development. All such units shall be compatible in appearance, siting and exterior design from the other single-family homes in the development, to the greatest extent possible. Interior finishes and furnishings may be reduced in quality and cost to assist in the lowering of the cost of development of AAFHH units.

Within multi-family developments, the AAFHH units shall be physically integrated into the design of the development and shall be distributed among various sizes (efficiency, one, two, three and four-bedroom units) in the same proportion as all other units in the development. AAFHH units shall be compatible with other market rate units from the outside or building exteriors. Interior finishes and furnishings may be reduced in quality and cost to assist in the lowering of the cost of development of the AAFHH units.

7. Conservation Zoning. The Planning Board shall consider the provisions of conservation subdivisions and conservation development, which may provide for bonus units, of the Town zoning law in furtherance of the Town's goals for providing affordable housing.
8. Property Restriction. All AAFHH units must be restricted using a document such as a declaration of restrictive covenants in recordable form acceptable to Town Attorney which shall ensure that the AAFHH unit shall permanently remain

subject to affordable regulations. Among other provisions, the covenants shall require that the unit be the primary residence of the residential household selected to occupy the dwelling unit. Upon approval, such declaration shall be recorded against the property containing the AAFH unit prior to the issuance of a Certificate of Occupancy for the dwelling unit.

F. Expedited Project Review Process

1. Pre-application meeting. The applicant for a development including AAFH units shall be entitled to attend at least one pre-application meeting at which representatives will be in attendance from each Bedford agency and staff expected to play a role in the review and approval of the development application and construction. The purpose of the pre-application meeting will be to expedite the development application review process through:
 - a. The early identification of issues, concerns, code compliance and coordination matters that may arise during the review and approval process.
 - b. The establishment of a comprehensive review process outline, proposed meeting schedule and conceptual timeline.
2. Meeting schedule and timeline. Bedford agencies and staff shall endeavor to honor the proposed meeting schedule and conceptual timeline established as an outcome of the pre-application to the greatest extent possible during the review and approval process, subject to the demonstrated cooperation of the applicant to adhere to same. Should the approval process extend beyond one year, an applicant for a development including AAFH units shall be entitled to at least one additional meeting per year with the same departments, agencies, authorities, boards, commissions, councils or committees to review any and all items discussed at previous pre-application meetings.
3. Calendar/agenda priority. Bedford agencies with review or approval authority over applications for developments including AAFH units shall give priority to such applications by placing applications for all developments including AAFH unit first on all meeting and work session calendars and agendas and, when feasible based on the ability to conduct required reviews and public notice, with the intent of shortening minimum advance submission deadlines to the extent practicable.

G. Administration by the Town Housing Agency.

1. Responsibility. The Town Housing Agency shall be responsible for administering the affordable housing requirements of this section as well as for the promulgation of such rules and regulations as may be necessary to implement such requirements.
2. Maximum Cost. At the time of issuance of a building permit, the Building Inspector shall send a copy of such permit to the Town Housing Agency, which shall then inform the applicant of the maximum rental or sales charge which may be established for AAFH units in such development and the maximum annual gross family income eligibility for occupancy of said units.
3. Annual Eligibility Requirements. With respect to rental units, on or before March 30 of each year thereafter the Town Housing Agency shall notify the owner or manager of each affordable unit as to the rent and income eligibility requirements for such unit based upon figures derived from the preceding calendar year. With respect to ownership units, the Town Housing Agency shall provide sales criteria for the sale of an affordable housing unit at the time of offering the unit for sale or resale.
4. Certification. The owner or manager of each AAFH rental unit shall annually certify to the satisfaction of the Town Housing Agency that the requisite number of

affordable units have been assigned to income-eligible individuals which meet the income guidelines in effect when said individual(s) took occupancy. Annual certification shall include unit designations and occupant names and shall be signed by the developer or his or her designated representative, as appropriate, and the Chairman of the Town Housing Agency.

5. Marketing Plan. All such AAFH units, whether for purchase or for rent, shall be marketed in accordance with the “Westchester County Fair & Affordable Housing Affirmative Marketing Plan.”
6. Preferences. No preferences shall be utilized to prioritize the selection of income-eligible tenants or purchasers for affordable AAFH units created under this subsection.
7. Maximum Rent and Sales Price. The maximum monthly rent for an AAFH unit and the maximum gross sales price for an AAFH unit shall be established in accordance with U.S. Department of Housing and Urban Development guidelines as published in the current edition of the “Westchester County Area Median Income (AMI) Sales & Rent Limits” available from the County of Westchester.
8. Time Period of Affordability. Units designated as AAFH units must remain permanently affordable for rental properties and ownership units.
9. Resale Requirements. In the case of owner-occupied AAFH units, the title to said property shall be restricted so that in the event of any resale by the home buyer or any successor, the resale price shall not exceed the then-maximum sales price for said unit, as determined in this ordinance, or the sum of:
 - (a) the net purchase price (i.e. gross sales prices minus subsidies) paid for the unit by the selling owner, increased by the percentage increase, if any, in the Consumer Price Index for Wage Earners and Clerical Workers in the New York-Northern New Jersey Area, as published by the United States Bureau of Labor Statistics (the “Index”) on any date between (1) the month that was two months earlier than the date on which the seller acquired the unit and (2) the month that is two months earlier than the month in which the seller contracts to sell the unit. If the Bureau stops publishing this index, and fails to designate a successor index, the Municipality will designate a substitute index; and
 - (b) the cost of the major capital improvements made by the seller of the unit while said seller of the unit owned the unit as evidenced by paid receipts depreciated on a straight line basis over a 15 year period from the date of completion and such approval shall be requested for said major capital improvement no later than the time the seller of the unit desires to include it in the resale price.

Notwithstanding the foregoing, in no event shall the resale price exceed an amount affordable to a household at 80% of AMI at the time of the resale.

10. Lease Renewal Requirements – Applicants for rental AAFH units shall, if eligible and if selected for occupancy, sign leases for a term of no more than two years. As long as a resident remains eligible and has complied with the terms of the lease, said resident shall be offered renewal leases for a term of not more than two years each. Renewal of a lease shall be subject to the conditions of federal, state or county provisions that may be imposed by the terms of the original development funding agreements for the development or the provisions of other applicable local law.

If no such provisions are applicable and if a resident’s annual gross income should subsequently exceed the maximum then allowable, as defined in this chapter, then:

Option (a): said resident may complete their current lease term and shall be offered a non-restricted market rate rental unit in the development at the termination of such lease term, if available. If no such dwelling unit shall be available at said time, the resident may be allowed to sign a one-year lease for the AAFH unit they occupy but shall not be offered a renewal of the lease beyond the expiration of said term; or

Option (b): said resident shall pay the greater of the following.

(1) the rent amount payable under the provisions of this ordinance should option (b) be utilized, or

(2) 30% of the resident's monthly adjusted household income provided that the increased rent may not exceed the market rent in the development for units with the same number of bedrooms, or

Should option (b) be utilized, the next open unit will become an AAFH unit.

Option (c): said resident shall pay the greater of:

(1) the rent amount payable under the provisions of this ordinance, or

(2) 30% of the resident's monthly adjusted household income provided that the increased rent may not exceed the market rent in the development for units with the same number of bedrooms for a term of not more than one (1) year.

11. Occupancy Standards

For the sale or rental of AAFH units, the following occupancy schedule shall apply:

<u>Number of Bedrooms</u>	<u>Number of Persons</u>
Efficiency	Minimum: 1, Maximum: 1
1 Bedroom	Minimum: 1, Maximum: 3
2 Bedroom	Minimum: 2, Maximum: 5
3 Bedroom	Minimum: 3, Maximum: 7
4 Bedroom	Minimum: 4, Maximum: 9

12. Affirmative Marketing

The AAFH units created under the provisions of this section shall be sold or rented, and resold and re-rented to only qualifying income-eligible households. Such income-eligible households shall be solicited in accordance with the requirements, policies and protocols established in the "Westchester County Fair & Affordable Housing Affirmative Marketing Plan" so as to ensure outreach to racially and ethnically diverse households.

H. Previously Approved Affordable Housing Units. Affordable housing units approved prior to the adoption of this local law shall continue with the provisions of their original approvals.

I. In-Lieu Fees. An applicant for a single-family residential subdivision may, as specified by the Planning Board, pay a fee-in-lieu of the construction of affordable units, on a scaled cost based on the zoning district as set forth below. Said fee shall be deposited into a fund hereinafter known as the "Town of Bedford Housing Trust Fund" to be used for the purchase and development of affordable housing at other locations within the Town.

<u>Zoning District</u>	<u>In-Lieu Fee Per Newly Created Lot</u>
¼ acre	\$4,000
½ acre	\$4,750
1 acre	\$7,000
2 acre	\$11,000
4 acre	\$14,000

Public Hearing – February 21, 2012 - continued

There being no further discussion the hearing was adjourned at 8:20 pm.

Lisbeth Fumagalli, Town Clerk